

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 TONY M. SMITH,)
9 Petitioner,)
10 vs.)
11)
12 GREGORY COX, *et al.*,)
13 Respondents.)
/

15 This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 in which
16 petitioner, a state prisoner, is proceeding *pro se*. The petition is currently pending before the court for
17 resolution on the merits. In order to address the merits, the court requires additional records from
18 petitioner's criminal trial. Respondents' main argument set forth in their answer is that the use of the
19 so-called *Kazalyn* jury instruction on first-degree murder was harmless error. The court cannot fathom
20 how respondents determined that at least an entire day of the transcript of the jury trial—particularly the
21 day that both the defendant testified and that the jury heard the taped, prior inconsistent statement of his
22 former co-defendant—was not relevant to the adjudication of this petition.

At any rate, the court orders respondents to file a supplemental exhibit containing the full and complete trial transcript from petitioner's jury trial, including the trial transcript dated December

1 3, 1998, the jury verdict, the jury instructions, all proposed jury instructions, and the transcript of any
2 hearings pertaining to the jury instructions **within twenty-one (21) days** of the date of this order.

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IT IS SO ORDERED.

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Dated this 1st day of November, 2012.

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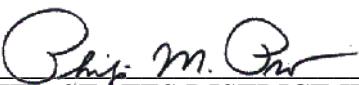
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UNITED STATES DISTRICT JUDGE